

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Petition of)
)
Rochester TV License Company, LLC)
) CSR-_____-N
For Waiver of Sections 76.92(f) and)
76.106(a) of the Commission's Rules)
)
)

To: Chief, Media Bureau

PETITION FOR SPECIAL RELIEF

David Kushner
Elizabeth Spainhour

BROOKS, PIERCE, McLENDON,
HUMPHREY & LEONARD, L.L.P.
Wells Fargo Capitol Center, Suite 1700
150 Fayetteville Street (27601)
Post Office Box 1800
Raleigh, North Carolina 27602
Telephone: (919) 839-0300
Facsimile: (919) 839-0304

Counsel to Rochester TV License Company, LLC

September 17, 2021

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Petition of)	
)	
Rochester TV License Company, LLC)	
)	CSR-_____N
For Waiver of Sections 76.92(f) and)	
76.106(a) of the Commission's Rules)	
)	
)	

PETITION FOR SPECIAL RELIEF

Rochester TV License Company, LLC, licensee of commercial television station KIMT(TV), Mason City, Iowa ("KIMT"), by its attorneys and pursuant to Section 76.7(a)(1) of the Commission's Rules, respectfully requests that the Commission grant a waiver of the significantly viewed exception to the network non-duplication provisions set forth in Section 76.92(f) and the syndicated exclusivity provisions set forth in Section 76.106(a) of the Commission's Rules. Specifically, KIMT requests permission to exercise its network non-duplication and syndicated exclusivity rights against WCCO-TV, Minneapolis, Minnesota ("WCCO"), in the Rochester, Minnesota (Olmstead County) cable community. KIMT and WCCO are carried on cable systems operated by Spectrum Mid-America, LLC ("Spectrum") serving Rochester.¹

Although the Commission currently considers WCCO significantly viewed in Rochester, the data submitted and discussed herein demonstrate that WCCO is no longer significantly viewed there. WCCO no longer meets the Commission's minimum viewing standards as set forth in Section 76.5(i)(1) of the Commission's Rules. Therefore, the Commission has ample

¹ Rochester is currently served by Spectrum Mid-America, LLC and CMN-RUS, Inc. *See* COALS, Rochester, Minnesota Cable Search, *available at* <https://apps.fcc.gov/coals/forms/search/cableSearchNf.cfm>. KIMT understands the CMN-RUS, Inc. (Jaguar) system in Rochester does not currently carry WCCO.

authority to grant KIMT's Petition and waive the significantly viewed exception with respect to WCCO so that KIMT may exercise its network non-duplication and syndicated exclusivity rights with respect to cable systems serving Rochester.

I. Introduction

KIMT is an affiliate of the CBS Network and is licensed to Mason City, Iowa, which is in the Rochester-Mason City-Austin Nielsen Designated Market Area ("DMA"). KIMT has acquired network programming and syndicated exclusivity rights by contract with the CBS Network and certain syndicators. *See* Declaration of Steve Martinson ("Martinson Declaration"), ¶¶ 3-4 (attached as Exhibit 3). WCCO, a CBS Network owned-and-operated station, is licensed to Minneapolis, Minnesota, located in the Minneapolis-St. Paul DMA. Rochester is located in Olmsted County, which is part of KIMT's DMA, and indeed is a first-named city in the DMA.

Rochester is also within KIMT's geographic zone of exclusivity protection. KIMT's television market, currently ranked market number 150 according to Nielsen, is not listed in Section 76.51 of the Commission's Rules, which means its designation for application of the geographic zone of network exclusivity protection is the 55-mile zone around the three named communities in KIMT's Nielsen DMA: Rochester, Minnesota; Mason City, Iowa; and Austin, Minnesota.² Rochester is a named community in KIMT's Nielsen DMA. As such, KIMT is

² *See* 47 C.F.R. §§ 76.51 and 73.658(m). *See also* *Midwest KAAL Corp. Petition for Declaratory Ruling*, Memorandum Opinion and Order, 7 FCC Rcd 5119 (CSB 1992) [hereinafter, "*Midwest KAAL*"], *recon. denied*, 8 FCC Rcd 4283 (1993). In *Midwest KAAL*, the FCC considered the zone of network non-duplication applicable in this very market—Rochester-Iowa City-Austin, which at the time was Arbitron ADI market number 146. The Commission ruled that KAAL, Austin was entitled to the full 55-mile zone surrounding each of the three cities in the hyphenated market (Rochester, Mason City, Austin). *See id.*, ¶ 6; *see also* *See TCI Cablevision of Oklahoma, Inc.*, Memorandum Opinion and Order, 10 FCC Rcd 10339 (CSB 1995), n.4 (Wichita Falls & Lawton DMA); *Grapevine of Austin License Sub, LLC*, Memorandum Opinion and Order, 15 FCC Rcd. 7349 (CSB 2000) (Rochester-Iowa City-Austin station KAAL granted waiver with respect to St. Paul station KSTP-TV in Rochester and other Olmstead County communities).

entitled to network non-duplication protection *in* and within the 55-mile zone of Rochester, as well as the 55-mile zones around Mason City and Austin.³ KIMT is entitled to syndicated exclusivity protection in and within the 35-mile zones of Rochester, Mason City, and Austin.⁴

WCCO is carried on Spectrum systems serving Rochester,⁵ and it airs network and syndicated programming that duplicates programming locally broadcast by KIMT and carried on Spectrum systems. *See* Martinson Declaration, ¶ 5.

FCC Rules provide that licensees are generally entitled to exercise network non-duplication rights acquired by contract.⁶ The Rules also generally provide that cable systems serving cable communities located in a station's geographic zone of protection are required to "black out" duplicative network programming.⁷ Likewise, the Commission's Rules permit licensees to exercise contractually acquired syndicated exclusivity rights within their geographic zone of protection.⁸ Generally, cable systems located within the geographic zone of protection of a television station may not carry syndicated programming that duplicates syndicated programming of a station with exclusivity rights within that community.⁹

³ *See* 47 C.F.R. §§ 76.92 (note) and 73.658(m). Rochester is within KIMT's primary (35-mile) zone of network non-duplication protection. *See* 47 C.F.R. § 76.92(b). Rochester is more than 80 miles from Minneapolis, WCCO's community of license.

⁴ *See* 47 C.F.R. § 76.101 (note).

⁵ *See* TV Listings, available at <https://www.tvpassport.com/tv-listings> (searching Spectrum – Rochester Area, MN & Spectrum – Rochester Area, MN - Digital); Spectrum HD Channel Lineup, available at <https://www.spectrum.com/cable-tv/channel-lineup> (searching Rochester, MN and 55901 zip code).

⁶ *See* 47 C.F.R. § 76.93.

⁷ *See id.* § 76.92.

⁸ *See id.* § 76.103(a).

⁹ *See id.* § 76.101 & note.

However, the significantly viewed exception permits otherwise “distant” television stations with duplicative network and/or syndicated programming to be carried on cable systems within a station’s protected zone if certain criteria are met.¹⁰ To be considered significantly viewed in a particular community, and take advantage of the exception, a station must have been included on the Commission’s 1972 list or demonstrate that it meets certain minimum viewing standards.¹¹ A station is “significantly viewed” under the Commission’s Rules if it meets the following viewing standards:

(1) *For a full or partial network station—a share of viewing hours of at least 3 percent (total week hours), and a net weekly circulation of at least 25 percent;* and (2) *for an independent station—a share of viewing hours of at least 2 percent (total week hours), and a net weekly circulation of at least 5 percent.*¹²

The Commission may waive a station’s significantly viewed exception to the network non-duplication and syndicated exclusivity rules if a petitioner demonstrates that a station once considered significantly viewed no longer meets these minimum viewing requirements.¹³ The Commission’s significantly viewed standards are currently under review in a pending rulemaking proceeding, but while this rulemaking remains open the standards remain unchanged and in effect.¹⁴

¹⁰ See *id.* §§ 76.92(f) and 76.106(a).

¹¹ See *Amendment of Part 74, Subpart K, of the Commission’s Rules and Regulations Relative to Community Antenna Systems*, Memorandum Opinion & Order on Reconsideration of the Cable Television Report & Order, 36 FCC 2d 326, App. B (1972) (list) [hereinafter “1972 Order”]; 47 C.F.R. § 76.5(i) (minimum viewing standards).

¹² 47 C.F.R. § 76.5(i) (emphasis added).

¹³ See *e.g.*, *KCST-TV, Inc.*, Memorandum Opinion & Order, 103 FCC 2d 407 (1986) [hereinafter “*KCST-TV*”] (network non-duplication); *KSBW, Inc.*, Memorandum Opinion & Order, 13 FCC Rcd 15470 (CSB 1998) (syndicated exclusivity).

¹⁴ See *Significantly Viewed Stations, Modernization of Media Regulation Initiative*, MB Dockets 20-73 and 17-105, Notice of Proposed Rulemaking, FCC 20-41 (rel. Mar. 31, 2020) [hereinafter, “*SV Notice*”].

According to the FCC’s original 1972 designation, and as updated from time to time in response to petitioner requests for changes, WCCO currently is considered significantly viewed in the community of Rochester.¹⁵ If not for WCCO’s status as a significantly viewed station, KIMT would be entitled to assert its network non-duplication and syndicated exclusivity rights against WCCO and require that Spectrum black out duplicative network and syndicated programming carried in Rochester. *See* Martinson Declaration, ¶ 5.

II. Independent Viewing Study

A. Viewing Measurements

The Commission determined in *KCST-TV* that waivers of the significantly viewed exception may be granted if a petitioner can show that, in each of two consecutive years, a station no longer meets the threshold significantly viewed requirements in a cable community or communities.¹⁶ In the context of a petition for waiver of significantly viewed status, a petitioner must show that a full network station¹⁷ fails to achieve over the air *either* a minimum of 3 percent total weekly viewing hours (also known as “share”) *or* a minimum of 25 percent net weekly circulation (also known as “cume”) in each of two consecutive years.¹⁸

¹⁵ *See* 1972 Order, App. B. The current significantly viewed list is available at <https://www.fcc.gov/files/significantviewedstations030819pdf> (see page 216 which lists Rochester and Rochester Township). Note the US Postal Service does not recognize a separate zip code for Rochester Township. *See* <https://tools.usps.com/zip-code-lookup.htm?bycitystate> (searching Rochester Township).

¹⁶ *See* *KCST-TV*, ¶ 11.

¹⁷ As a CBS Network O&O station, WCCO is a “full network station” as defined by Section 76.5(j) of the Commission’s Rules.

¹⁸ *See* 47 C.F.R. § 76.5(i)(1); *see, e.g., Catamount Broadcasting of Chico-Redding, Inc. and Chico License LLC*, Memorandum Opinion & Order, 28 FCC Rcd 12296 (MB 2013), ¶ 3.

A petition for waiver must be accompanied by an independent audience study and must be based on community-specific or system-specific data, to one standard error.¹⁹ Further, the study must cover at least two weekly periods separated by at least thirty (30) days, not more than one of which may be a week between April and September.²⁰ If surveys are taken for more than two weekly periods in any 12 months, then they must result in an average figure that, combined with one standard error, is less than one of the viewing thresholds noted above (*i.e.*, share of 3 percent or cume of 25 percent).²¹

The Commission has long permitted petitioners seeking waiver of the significantly viewed exception to submit special tabulations of previously collected Nielsen Media Research (“Nielsen”) sweeps data in order to demonstrate that a television station no longer meets the threshold viewership requirements.²²

As mentioned above, the Commission’s significantly viewed standards are the subject of an open rulemaking at this time.²³ As discussed in the *Notice of Proposed Rulemaking* in this proceeding, Nielsen updated its television viewing measurement methodology in 2019, replacing paper diaries in the smallest 140 DMAs with electronic measurement, including measurement by

¹⁹ See, *e.g.*, *KCST-TV*, ¶ 11.

²⁰ See 47 C.F.R. § 76.54(b); see also *WHP Licensee, LLC*, Memorandum Opinion & Order, 33 FCC Rcd 3467 (MB 2018), ¶ 4.

²¹ See 47 C.F.R. § 76.54(b); see also *Media Gen. Commc'ns Holdings, LLC*, Memorandum Opinion & Order, 31 FCC Rcd 1225 (MB 2016), ¶ 3. A single survey may be conducted for more than one community served by the same cable system, but, in that case, the sample studied must be proportional to the population of the relevant communities. Because the instant study is community-specific and not system-specific, there is no proportionality requirement. See *WTNH Broadcasting, Inc. & K-W TV, Inc.*, Order on Reconsideration, 16 FCC Rcd 16377 (2001), ¶ 6.

²² See, *e.g.*, *KCST-TV*, 103 FCC 2d 407 (1986); *Saga Broadcasting, LLC*, Memorandum Opinion & Order, 28 FCC Rcd 16685 (MB 2013).

²³ See *SV Notice*.

people meters, set meters, code readers, and return path data (RPD) from cable and satellite set-top boxes.²⁴ Nielsen also began measuring television viewing every month instead of only four times per year during “sweeps” periods.²⁵ In markets such as Rochester-Mason City-Austin, Nielsen now uses a methodology called RPD+, which incorporates set top box data that captures cable and satellite viewing and code readers that capture over-the-air viewing.²⁶

While the Commission considers comments related to changes in technology and viewing measurement in the open proceeding, the standards established in *KCST-TV* and subsequent cases remain in effect. However, to buttress this Petition and remove any doubt about WCCO’s significantly viewed status, KIMT commissioned two viewing studies—one measuring WCCO’s over-the-air viewing using Nielsen diary data and a second study using RPD+ data (over-the-air only).

As required by Section 76.54(c) of the Commission’s Rules, KIMT sent letters via certified mail, return receipt requested, notifying all relevant entities more than thirty days before purchasing the studies of WCCO.²⁷ *See* Martinson Declaration, ¶ 6. For Study 1, KIMT commissioned the special tabulation of sweeps data from Nielsen based on parameters established by Commission Rules and precedent, including *KCST-TV* and the line of subsequent cases. *See* Declaration of Michael Spiesman (“Spiesman Declaration”), ¶ 5 (attached as Exhibit 4). KIMT requested that Nielsen tabulate over-the-air diaries obtained during four week sweeps periods in July 2016 and November 2016 (combined) and July 2017 and November 2017

²⁴ *See id.*, ¶ 7.

²⁵ *See id.*

²⁶ *See* Nielsen TV Measurement: Simplified, available at <https://blog.katzmedia.com/on-measurement/nielsen-measurement-simplified> (discussing RPD+).

²⁷ *See Media Gen. Commc'ns Holdings, Inc.*, Memorandum Opinion & Order, 31 FCC Rcd 1230 (MB 2016), ¶ 4 & n.14.

(combined) for Rochester zip codes.²⁸ KIMT used the most recent available diary data that included a sufficient number of diaries. For Study 2, KIMT requested that Nielsen separately tabulate over-the-air RPD+ data from the periods July 2019 and November 2019 (combined) and July 2020 and November 2020 (combined) in the same zip codes. *See* Spiesman Declaration, ¶ 5. A more detailed description of the studies and the sampling and calculation methodologies associated with each study as agreed upon by Nielsen and KIMT are included in the letter and reports provided by Nielsen, which are attached with Exhibits 1 and 2.

B. Results

1. Study 1 – Diaries

The results of Nielsen’s study using traditional diary data, included in Exhibit 1 and summarized below, demonstrate that WCCO failed to achieve viewership in Rochester sufficient to meet the minimum requirements of Section 76.5(i)(1).

Year	Survey Periods	Number in Tab	Average Share Viewing Hours	Average Share Standard Error	Average View Share w/1 Standard Error	Average Net Weekly Circ.	Average Net Weekly Circ. Standard Error	Average Net Weekly Circ. w/1 Standard Error
1	July 2016/ Nov. 2016	72	0.91	0.72	1.63	1.60	1.15	2.75
2	July 2017/ Nov. 2017	71	1.57	1.32	2.89	1.11	1.12	2.23

As the data demonstrate, WCCO failed to meet the necessary viewing levels in Rochester for each of two consecutive years. With one standard error included, WCCO had under 3 percent share of total viewing hours *and* net weekly circulation in 2016 and 2017. Therefore, WCCO fails to meet the required minimum 3 percent average share of total viewing hours and 25 percent

²⁸ *See* Spiesman Declaration, ¶¶ 4-5. The table provided by Nielsen indicates the zip codes analyzed. *See* Exhibits 1 and 2. Zip codes for Rochester were obtained from the U.S. Postal Service (<http://www.usps.com/>). Rochester’s zip codes are 55901, 55902, 55903, 55904, 55905 and 55906. The Commission has previously determined that petitioner identification of zip codes is consistent with the Rules requiring an independent study. *See, e.g., KSWB, Inc., Memorandum Opinion & Order*, 13 FCC Rcd 15470 (CSB 1998), ¶ 9.

average net weekly circulation for both years in Rochester. This is enough on its own to support a finding that WCCO is no longer significantly viewed in Rochester.

2. Study 2 – RPD+

The results of Nielsen’s study using more recent over-the-air only RPD+ data, included in Exhibit 2 and summarized below, likewise demonstrate that WCCO failed to achieve viewership in Rochester sufficient to meet the minimum requirements of Section 76.5(i)(1).

Year	Survey Periods	Number in Tab	Average Share Viewing Hours	Average Share Standard Error	Average View Shares w/1 Standard Error	Average Net Weekly Circ.	Average Net Weekly Standard Error	Average Net Weekly Circ. w/1 Standard Error
1	July 2019/ Nov. 2019	27	0	0	0	0	0	0
2	July 2020/ Nov. 2020	31	0	0.02	0.02	0.89	0.92	1.81

This more recent over-the-air data make an even more compelling case that WCCO failed to meet the necessary viewing levels in Rochester for each of two consecutive years. With one standard error included, WCCO had no measurable viewing in 2019 and 0.02 percent share of total viewing hours and 1.81 percent net weekly circulation in 2020. Again, WCCO continues to fall far short of the required minimum 3 percent average share of total viewing hours and 25 percent average net weekly circulation for both years in Rochester and is no longer significantly viewed.

KIMT has met its burden and demonstrated that WCCO fails to meet the requirements to maintain its status as significantly viewed in Rochester. Consistent with the Commission’s Rules, KIMT has shown that, for two consecutive years, WCCO did not achieve at least 3 percent share of total viewing hours and 25 percent net weekly circulation. The Commission may grant

KIMT's request for waiver in the Community based on either Study 1 or Study 2 and the methodology described herein. Commission precedent fully supports such a result.²⁹

III. Conclusion

For the foregoing reasons, KIMT respectfully requests that the Commission grant its request for waiver of the significantly viewed exception to the network non-duplication and syndicated exclusivity rules against WCCO on cable systems serving Rochester, Minnesota, so that KIMT may exercise its network non-duplication and syndicated exclusivity rights.

Respectfully submitted,

Rochester TV License Company, LLC

/s/
David Kushner
Elizabeth Spainhour
BROOKS, PIERCE, McLENDON,
HUMPHREY & LEONARD, L.L.P.
150 Fayetteville Street, Suite 1700 (27601)
Post Office Box 1800
Raleigh, North Carolina 27602
Telephone: (919) 839-0300
Facsimile: (919) 839-0304

Counsel to Rochester TV License Company, LLC

September 17, 2021

²⁹ See e.g., *WHP Licensee, LLC*, Memorandum Opinion & Order, 33 FCC Rcd 3467 (MB 2018); *Media Gen. Commc'ns Holdings, Inc.*, Memorandum Opinion & Order, 31 FCC Rcd 1230 (MB 2016); *Media Gen. Commc'ns Holdings, LLC*, Memorandum Opinion & Order, 31 FCC Rcd 1225 (MB 2016); *Catamount Broadcasting of Chico-Redding, Inc. and Chico License LLC*, Memorandum Opinion & Order, 28 FCC Rcd 12296 (MB 2013); *Barrington Kirksville Licensee LLC KTVO*, Memorandum Opinion & Order, 28 FCC Rcd 2843 (MB 2013); *Gray Television Licensee, LLC*, Memorandum Opinion & Order, 28 FCC Rcd 12255 (MB 2013); *WBOC, Inc.*, Memorandum Opinion & Order, 24 FCC Rcd 1635 (MB 2009); *Tribune Television Co.*, Memorandum Opinion & Order, 24 FCC Rcd 1622 (MB 2009).

VERIFICATION OF LICENSEE

The signature of the Licensee's officer below indicates that he/she has read the foregoing petition and that to the best of his/her knowledge the information is true and correct.

ROCHESTER TV LICENSE COMPANY, LLC

By:


Name ROBERT S. PRATHER, JR.

Title CEO

Date SEPTEMBER 15, 2021

EXHIBIT 1

Nielsen Study 1 – Diary Data



Significant Viewing Study							
Rochester							
Jul16, Nov16 and Jul17, Nov17							
Su-Sa 7A-1A							
WCCO							

WCCO

Geography Grouping	Results	Jul16	Nov16	Combined		Jul17	Nov17	Combined
Zip Codes: 55901, 55902, 55903, 55904, 55905, 55906	Number of Intabs	29	43	72		39	32	71
	Average Weekly Cume	0.00	2.92	1.60		0.00	2.36	1.11
	Cume Std. Error	0.00	2.07	1.15		0.00	2.41	1.12
	Share	0.00	1.46	0.91		0.00	1.57	1.57
	Share Std. Error	0.00	1.13	0.72		0.00	1.33	1.32



The attached report provides audience net weekly circulation (cume) and share information among non-cable/non-ADS households for WCCO during the Nielsen Station Index (NSI) survey conducted over four week periods during the July 2016 and November 2016 combined measurement periods and the July 2017 and November 2017 combined measurement periods. The report is based on a series of zip codes. Households will maintain the reported Nielsen Viewers in Profile (VIP) weights used to project in-tab sample households to universe estimates for their respective measurement periods. This study measures non-cable/non-ADS household viewing between 7AM-1AM, Monday to Sunday.

The sample source for this survey consisted of non-cable/non-ADS TV households returning usable television viewing diaries. NSI procedures were used for distributing diaries and for compiling the estimated audience projections in this report. Average quarter hour projections were computed by summing weights for quarter hours in the daypart for the non-cable/non-ADS in-tab households and dividing by the number of quarter hours in the daypart. The weights which were used for projections are those used to project in-tab sample households to universe estimates in the regular Nielsen Viewers in Profile analysis. Share and cume estimates as well as their respective standard errors are computed for each of the geographies as follows:

Shares of total viewing are computed by dividing average quarter hour M-Su 7AM-1AM projections of a given station for the non-cable/non-ADS in-tab households by the average quarter hour M-Su 7AM-1AM projections in non-cable/non-ADS households across all stations. The associated standard error is calculated using the accepted formula for computing the standard error of a ratio estimate and is shown below:

The average weekly circulation (cume) is an average of the four weeks of the measurement period. The cume was computed by summing the weights for all non-cable/non-ADS households tuning at least one quarter hour to a given station within the cycle during the M-Su 7AM-1AM daypart and dividing by the sum of all non-cable/non-ADS weights within the given measurement period for each week. The cume for each week in the measurement period is then summed and divided by the number of weeks in the measurement period to compute the average weekly cume. The associated standard error for the average weekly cume is calculated using the accepted formula for computing the standard error of a ratio estimate. This standard error is the error of the average weekly cume; it is not an average of the weekly standard error. The formulas used are shown below:

Share

$$Share = \frac{\sum_1^n (w * Qhrs(s))}{\sum_1^n (w * Qhrs(t))}$$

Share Standard Error



$$\text{Std Error} = \sqrt{\frac{n}{n-1} * \sum_1^n \left[\frac{(w * Qhrs(s)) - (\text{Share} * w * Qhrs(t))}{\sum_1^n (w * Qhrs(t))} \right]^2}$$

where n = number of intab households

where w = household weight

where $Qhrs(s)$ = total quarter hours tuned to station of interest by household

where $Qhrs(t)$ = total quarter hours tuned by household

Average Weekly Cume

$$\text{Average Weekly Cume} = \frac{1}{z} * \sum_1^z \left[\frac{\sum_1^n (HH \text{ Weight} * x)}{\sum_1^n HH \text{ Weight}} \right]$$

Average Weekly Cume Standard Error

$$\text{Std Error} = \sqrt{\frac{1}{z^2} \sum_1^z \left[\frac{n}{n-1} * \sum_1^n \left[\frac{(x - \text{Week Cume}) * HH \text{ Weight}}{\sum_1^n HH \text{ Weight}} \right]^2 \right]}$$

where z = number of weeks in analysis (with non-zero intabs)

where n = number of intab households in week

where $x = 0$ if household did not tune station of interest

where $x = 1$ if household did tune station of interest

The attached report is representative of the viewing patterns of the non-cable/non-ADS households of the geographic area surveyed.

EXHIBIT 2

Nielsen Study 2 – RPD+ Data



The attached report provides audience net weekly circulation (cume) and share information among non-cable/non-ADS households for WCCO during the Nielsen Station Index (NSI) RPD+ survey conducted over four week periods during the July 2019, November 2019, July 2020, and November 2020 measurement periods. The report is based on a series of zip codes as a group (55901, 55902, 55903, 55904, 55905, 55906) in Rochester-Mason City Minneapolis. NSI procedures were used for selecting the Code Reader/NPM households and for compiling the estimated audience projections in this report. Average quarter hour projections were computed by summing weights for quarter hours in the daypart for the non-cable/non-ADS in-tab households and dividing by the number of quarter hours in the daypart. Share and cume estimates as well as their respective standard errors are computed for each of the geographies as follows:

Shares of total viewing are computed by dividing average quarter hour M-Su 7AM-1AM projections of a given station for the non-cable/non-ADS in-tab households by the average quarter hour M-Su 7AM-1AM projections in non-cable/non-ADS households across all stations. The weights which were used for projections are those used to project in-tab sample households to universe estimates in the regular Nielsen reports. The associated standard error is calculated using the accepted formula for computing the standard error of a ratio estimate and is shown below:

The average weekly circulation (cume) is an average of the four weeks of the measurement period. Households used in the calculation of cume are “unified” households, that is, homes that are in-tab at least 75% of a particular week. Unified households are re-weighted using the same controls as those used to weight the total in-tab sample. The cume was computed by summing the weights for all non-cable/non-ADS households tuning at least one quarter hour to a given station within the cycle during the M-Su 7AM-1AM daypart and dividing by the sum of all non-cable/non-ADS weights within the given measurement period for each week. The cume for each week in the measurement period is then summed and divided by the number of weeks in the measurement period to compute the average weekly cume. The associated standard error for the average weekly cume is calculated using the accepted formula for computing the standard error of a ratio estimate. This standard error is the error of the average weekly cume; it is not an average of the weekly standard error. The formulas used are shown below:

Share

$$Share = \frac{\sum_1^n (w * Qhrs(s))}{\sum_1^n (w * Qhrs(t))}$$

Share Standard Error

$$\text{Std Error} = \sqrt{\frac{n}{n-1} * \sum_1^n \left[\frac{(w * Qhrs(s)) - (Share * w * Qhrs(t))}{\sum_1^n (w * Qhrs(t))} \right]^2}$$

where n = number of intab households

where w = household weight

where $Qhrs(s)$ = total quarter hours tuned to station of interest by household

where $Qhrs(t)$ = total quarter hours tuned by household

Average Weekly Cume

$$\text{Average Weekly Cume} = \frac{1}{z} * \sum_1^z \left[\frac{\sum_1^n (HH \text{ Weight} * x)}{\sum_1^n HH \text{ Weight}} \right] * 100$$

Average Weekly Cume Standard Error

$$\text{Std Error} = \sqrt{\frac{1}{z^2} * \frac{n'}{n'-1} * \sum_1^n \left[\frac{\sum_1^z (x - \text{Week Cume}) * HH \text{ Weight}}{\sum_1^z HH \text{ Weight}} \right]^2}$$

where $HH \text{ Weight}$ = Unified weekly household weight

where z = number of weeks in analysis (with non-zero intabs)

where n = number of in-tab households in week

where n' = number of unique households

where $x = 0$ if household did not tune station of interest

where $x = 1$ if household did tune station of interest

$$\frac{\sum_1^n (HH \text{ Weight} * x)}{\sum_1^n HH \text{ Weight}}$$

where $\text{Week Cume} =$

The attached report is representative of the viewing patterns of the non-cable/non-ADS households of the geographic area surveyed.

EXHIBIT 3

Declaration of Steve Martinson

Declaration of Steve Martinson

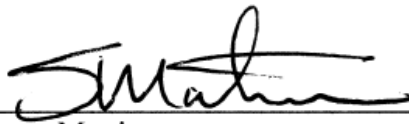
I, Steve Martinson, hereby declare, under penalty of perjury, as follows:

1. I am greater than eighteen years of age and am competent to make this Declaration.
2. I am the Vice President and General Manager for Station KIMT(TV), Mason City, Iowa ("KIMT"). I have held this position at all times relevant to this Petition.
3. KIMT is the CBS Network affiliate for the Rochester-Mason City-Austin Designated Market Area and has contractually acquired network non-duplication rights from the CBS Network to the extent permitted by the FCC's Rules. KIMT is not able to assert those rights against WCCO-TV, Minneapolis, Minnesota ("WCCO"), on Spectrum systems serving Rochester, Minnesota.
4. KIMT has contractually acquired syndicated programming from a number of syndicators. KIMT is not able to assert the exclusivity provisions of those agreements against WCCO on Spectrum systems serving Rochester, Minnesota.
5. KIMT broadcasts programming that is carried on Spectrum systems serving Rochester and is duplicated by WCCO's network and syndicated programming also carried by Spectrum. If not for WCCO's significantly viewed status, KIMT would be able to assert its network non-duplication and syndicated exclusivity rights on Spectrum systems in Rochester.
6. On May 6, 2021, I caused notice letters concerning a study of WCCO to be sent via certified mail, return receipt requested, to all licensees or permittees of television broadcast stations within whose noise limited service contour the cable community or communities are located, in whole or in part, and on all other system community units, franchisees, and franchise applicants in Rochester, Minnesota. A true and accurate copy of the notice is attached as Attachment A.
7. I did not receive notice of any objections to the study proposed in the notice.

[signature appears on the following page]

I declare, under penalty of perjury, that the foregoing Declaration is true and accurate to the best of my knowledge, information, and belief.

Date 9/10/21



Steve Martinson
Vice President and General Manager
KIMT(TV)

**ATTACHMENT A
to EXHIBIT 3**

Sample Notice Letter



May 6, 2021

Via Certified Mail, Return Receipt Requested

WCCO
90 S. 11th Street
Minneapolis, MN 55403

Re: Notice of Intent to Purchase a Significantly Viewed Survey

Dear Sir/Madam:

Pursuant to 47 C.F.R. §76.54(c), we hereby provide notice that Rochester License Company, LLC, licensee and owner of KIMT, Mason City, Iowa, will within thirty (30) days from the date of this letter cause to be conducted an independent professional audience survey of over-the-air television homes in the community of Rochester, Minnesota (the "Community"). The purpose of the survey is to determine whether WCCO-TV, Minneapolis, Minnesota, is significantly viewed in the Community.

The audience survey analysis will be conducted by Nielsen Media Research ("Nielsen") in accordance with 47 C.F.R. §76.54(b) and the FCC's relevant precedents. The survey will measure audience net weekly circulation and share information for WCCO-TV in over-the-air homes (i.e. non-cable, non-ADS households) over the Nielsen sweeps measurement periods for July and November 2016 (combined) and July and November 2017 (combined). Over-the-air weekly viewing hours and net weekly circulation results will each be averaged and will include at least one standard error, pursuant to 47 C.F.R. § 76.54(b).

A separate audience survey analysis of over-the-air homes will also be conducted by Nielsen for July and November 2019 (combined) and July and November 2020 (combined). Again, over-the-air weekly viewing hours and net weekly circulation results will each be averaged and will include at least one standard error, pursuant to 47 C.F.R. § 76.54(b).

To provide a representative sample of over-the-air viewing of WCCO-TV in the Community, Nielsen will prepare a special tabulation of diaries obtained from the non-cable, non-ADS households in the zip codes comprising the Community, specifically zip codes 55901, 55902, 55903, 55904, 55905, and 55906.

For a more detailed description of the methodology to be used, please consult the enclosed documents from Nielsen.

Sincerely,

Stephen Martinson
General Manager, KIMT

Enclosures



The attached report provides audience net weekly circulation (cume) and share information among non-cable/non-ADS households for WCCO during the Nielsen Station Index (NSI) survey conducted over four week periods during the July 2016, November 2016, July 2017, November 2017 measurement periods. The report is based on a series of zip codes. Households will maintain the reported Nielsen Viewers in Profile (VIP) weights used to project in-tab sample households to universe estimates for their respective measurement periods. This study measures non-cable/non-ADS household viewing between 7AM-1AM, Monday to Sunday.

The sample source for this survey consisted of non-cable/non-ADS TV households returning usable television viewing diaries. NSI procedures were used for distributing diaries and for compiling the estimated audience projections in this report. Average quarter hour projections were computed by summing weights for quarter hours in the daypart for the non-cable/non-ADS in-tab households and dividing by the number of quarter hours in the daypart. The weights which were used for projections are those used to project in-tab sample households to universe estimates in the regular Nielsen Viewers in Profile analysis. Share and cume estimates as well as their respective standard errors are computed for each of the geographies as follows:

Shares of total viewing are computed by dividing average quarter hour M-Su 7AM-1AM projections of a given station for the non-cable/non-ADS in-tab households by the average quarter hour M-Su 7AM-1AM projections in non-cable/non-ADS households across all stations. The associated standard error is calculated using the accepted formula for computing the standard error of a ratio estimate and is shown below:

The average weekly circulation (cume) is an average of the four weeks of the measurement period. The cume was computed by summing the weights for all non-cable/non-ADS households tuning at least one quarter hour to a given station within the cycle during the M-Su 7AM-1AM daypart and dividing by the sum of all non-cable/non-ADS weights within the given measurement period for each week. The cume for each week in the measurement period is then summed and divided by the number of weeks in the measurement period to compute the average weekly cume. The associated standard error for the average weekly cume is calculated using the accepted formula for computing the standard error of a ratio estimate. This standard error is the error of the average weekly cume; it is not an average of the weekly standard error. The formulas used are shown below:

Share

$$Share = \frac{\sum_1^n (w * Qhrs(s))}{\sum_1^n (w * Qhrs(t))}$$

Share Standard Error



$$\text{Std Error} = \sqrt{\frac{n}{n-1} * \sum_1^n \left[\frac{(w * Qhrs(s)) - (\text{Share} * w * Qhrs(t))}{\sum_1^n (w * Qhrs(t))} \right]^2}$$

where n = number of intab households

where w = household weight

where $Qhrs(s)$ = total quarter hours tuned to station of interest by household

where $Qhrs(t)$ = total quarter hours tuned by household

Average Weekly Cume

$$\text{Average Weekly Cume} = \frac{1}{z} * \sum_1^z \left[\frac{\sum_1^n (HH \text{ Weight} * x)}{\sum_1^n HH \text{ Weight}} \right]$$

Average Weekly Cume Standard Error

$$\text{Std Error} = \sqrt{\frac{1}{z^2} \sum_1^z \left[\frac{n}{n-1} * \sum_1^n \left[\frac{(x - \text{Week Cume}) * HH \text{ Weight}}{\sum_1^n HH \text{ Weight}} \right]^2 \right]}$$

where z = number of weeks in analysis (with non-zero intabs)

where n = number of intab households in week

where $x = 0$ if household did not tune station of interest

where $x = 1$ if household did tune station of interest

The attached report is representative of the viewing patterns of the non-cable/non-ADS households of the geographic area surveyed.



The attached report provides audience net weekly circulation (cume) and share information among non-cable/non-ADS households for WCCO during the Nielsen Station Index (NSI) RPD+ survey conducted over four week periods during the July 2019, November 2019, July 2020, and November 2020 measurement periods. The report is based on a series of zip codes as a group (55901, 55902, 55903, 55904, 55905, 55906) in Rochester-Mason City Minneapolis. NSI procedures were used for selecting the Code Reader/NPM households and for compiling the estimated audience projections in this report. Average quarter hour projections were computed by summing weights for quarter hours in the daypart for the non-cable/non-ADS in-tab households and dividing by the number of quarter hours in the daypart. Share and cume estimates as well as their respective standard errors are computed for each of the geographies as follows:

Shares of total viewing are computed by dividing average quarter hour M-Su 7AM-1AM projections of a given station for the non-cable/non-ADS in-tab households by the average quarter hour M-Su 7AM-1AM projections in non-cable/non-ADS households across all stations. The weights which were used for projections are those used to project in-tab sample households to universe estimates in the regular Nielsen reports. The associated standard error is calculated using the accepted formula for computing the standard error of a ratio estimate and is shown below:

The average weekly circulation (cume) is an average of the four weeks of the measurement period. Households used in the calculation of cume are “unified” households, that is, homes that are in-tab at least 75% of a particular week. Unified households are re-weighted using the same controls as those used to weight the total in-tab sample. The cume was computed by summing the weights for all non-cable/non-ADS households tuning at least one quarter hour to a given station within the cycle during the M-Su 7AM-1AM daypart and dividing by the sum of all non-cable/non-ADS weights within the given measurement period for each week. The cume for each week in the measurement period is then summed and divided by the number of weeks in the measurement period to compute the average weekly cume. The associated standard error for the average weekly cume is calculated using the accepted formula for computing the standard error of a ratio estimate. This standard error is the error of the average weekly cume; it is not an average of the weekly standard error. The formulas used are shown below:

Share

$$Share = \frac{\sum_1^n (w^* Qhrs(s))}{\sum_1^n (w^* Qhrs(t))}$$



Share Standard Error

$$\text{Std Error} = \sqrt{\frac{n}{n-1} * \sum_1^n \left[\frac{(w * Qhrs(s)) - (\text{Share} * w * Qhrs(t))}{\sum_1^n (w * Qhrs(t))} \right]^2}$$

where n = number of intab households

where w = household weight

where $Qhrs(s)$ = total quarter hours tuned to station of interest by household

where $Qhrs(t)$ = total quarter hours tuned by household

Average Weekly Cume

$$\text{Average Weekly Cume} = \frac{1}{z} * \sum_1^z \left[\frac{\sum_1^n (HH \text{ Weight} * x)}{\sum_1^n HH \text{ Weight}} \right] * 100$$

Average Weekly Cume Standard Error

$$\text{Std Error} = \sqrt{\frac{1}{z^2} * \frac{n'}{n'-1} * \sum_1^n \left[\frac{\sum_1^z (x - \text{Week Cume}) * HH \text{ Weight}}{\sum_1^z HH \text{ Weight}} \right]^2}$$

where $HH \text{ Weight}$ = Unified weekly household weight

where z = number of weeks in analysis (with non-zero intabs)

where n = number of in-tab households in week

where n' = number of unique households

where $x = 0$ if household did not tune station of interest

where $x = 1$ if household did tune station of interest

$$\text{where Week Cume} = \frac{\sum_1^n (HH \text{ Weight} * x)}{\sum_1^n HH \text{ Weight}}$$



The attached report is representative of the viewing patterns of the non-cable/non-ADS households of the geographic area surveyed.

EXHIBIT 4

Declaration of Michael Spiesman

Declaration of Michael Spiesman

I, Michael Spiesman, hereby declare, under penalty of perjury, as follows:

1. I am greater than eighteen years of age and am competent to make this Declaration.

2. I am a Vice President, Sales and Marketing for Allen Media Broadcasting LLC ("AMB"). AMB is an affiliated entity of Rochester TV License, LLC, licensee of KIMT(TV), Mason City, Iowa ("KIMT"). I have served in this position at all times relevant to this Petition.

3. As part of my job duties, I liaise with Nielsen Media Research ("Nielsen") on behalf of KIMT.

4. I assisted Steve Martinson, Vice President and General Manager of KIMT, with purchasing from Nielsen the significantly viewed study of WCCO-TV, Minneapolis, Minnesota ("WCCO") that is the subject of this Petition. The U.S. Postal Service website (<http://www.usps.com/>) was used to identify all zip codes for Rochester, Minnesota.

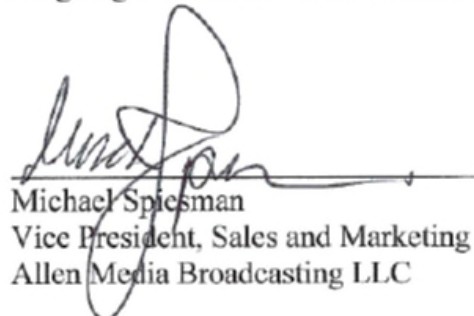
5. On or about June 8, 2021, for Study 1, I asked Nielsen to provide audience net weekly circulation (cume) and share of weekly viewing hours (share) among non-cable/non-ADS households in the identified zip codes for WCCO during the July 2017 and November 2017 (combined) sweeps periods and the July 2018 and November 2018 (combined) sweeps periods (7 a.m. to 1 a.m., Monday to Sunday). I also requested that the results be averaged and that the study provide the data with one standard error. In addition, for Study 2, I asked Nielsen separately to provide audience net weekly circulation (cume) and share of weekly viewing hours (share) among non-cable/non-ADS households in the identified zip codes for WCCO during the July 2019 and November 2019 (combined) and July 2020 and November 2020 (combined) periods by tabulating over-the-air RPD+ data. I further requested that these results be averaged and that the study provide the data with one standard error. The reports provided by Nielsen, which are attached as Exhibits 1 and 2, use methodology and parameters as agreed by KIMT and Nielsen.

6. The letter and reports attached as Exhibits 1 and 2 to this Petition were provided by Nielsen. I made no changes or alterations to the letter and report as provided by Nielsen.

I declare, under penalty of perjury, that the foregoing Declaration is true and accurate to the best of my knowledge, information, and belief.

9/15/21

Date



Michael Spiesman
Vice President, Sales and Marketing
Allen Media Broadcasting LLC

Certificate of Service

The undersigned, of the law firm of Brooks, Pierce, McLendon, Humphrey & Leonard, L.L.P., hereby certifies that she has caused a copy of the foregoing Petition for Special Relief to be placed in the U.S. Mail, first-class postage prepaid, addressed as follows:

Spectrum Mid America, LLC
12405 Powerscourt Dr.
St. Louis, MO 63131

Mediacom Minnesota, LLC
One Mediacom Way
Mediacom Park, NY 10918

MCC Iowa, LLC
One Mediacom Way
Mediacom Park, NY 10918

Forest City Telecom, LLC
704 East Main Street
Lake Mills, IA 50450

Communications 1 Cablevision Inc.
105 S Main St.
Kanawha, IA 50447

Farmers Mutual Telephone Company
603 East Congress
Nora Springs, IA 50458

Rockwell Communications Systems, LLC
111 4th St N.
Rockwell, IA 50489

Northland Communications Inc.
107 N. 4th Street
Clear Lake, IA 50428

Osage Municipal Utilities
720 Chestnut Street
Osage, IA 50461

Winnebago Cooperative Telephone
Association
704 East Main Street
Lake Mills, IA 50450

Jaguar Communication, Inc.
213 S. Oak Ave.
Owatonna, MN 55060

Hiawatha Broadband Communication, Inc.
58 Johnson St.
Winona, MN 55987

Ace Telephone Association
207 E. Cedar
Houston, MN 55943

Pine Island Telephone Company
108 SW 2nd Street
Pine Island, MN 55963

Kasson and Mantorville Telephone
Company
18 2nd Ave NW
Kasson, MN 55944

Mid Continent Communications
3901 N. Louise Ave.
Sioux Falls, SD 57107

Bev Comm, Inc.
123 W. 7th Street
Blue Earth, MN 56013

Southern Cablevision, Inc.
112 1st Ave NW
Grand Meadow, MN 55936

CMN-Rus, Inc.
8837 Bund Street
Overland Park, KS 66214

Harmony Telephone Company
P.O. Box 308
Harmony, MN 55939

North American Communications
Cooperation
213 S. Oak Ave.
Owatonna, MN 55060

Arvig Communications Systems
112 1st Ave. NW
Grand Meadow, MN 55936

KTTC / KXLT
6301 Bandel Road NW
Rochester, MN 55901

KAAL
1320 Salem Road SW
Rochester, MN 55902

KAAL
1701 10th Place NE
Austin, MN 55912

Iowa Public (KYIN)
6450 Corporate Drive, Box 6450
Johnston, Iowa 50131

WCCO
90 S. 11th Street
Minneapolis, MN 55403

KSMQ (MN Public)
2000 Eighth Avenue NW
Austin, MN 55912

This the 17th day of September, 2021.



Elizabeth Spainhour